

**SUPREME COURT MINUTES
MONDAY, JANUARY 27, 2003
SAN FRANCISCO, CALIFORNIA**

S024642

PEOPLE v. BURGNER (MICHAEL RAY)
Opinion filed: Judgment vacated

and the cause is remanded to the superior court for prompt reconsideration of the automatic application for modification of the death verdict (Section 190.4, Subd. (e)). If the superior court, upon application of the appropriate standards, denies the application for modification of the verdict, it shall reinstate the judgment of death. If it grants the application, it shall enter a judgment of life without the possibility of parole. Any subsequent appeal shall be limited to issues related to the modification application. (See People v. Bonillas, supra, 48 Cal.3d at p. 802.)

Majority Opinion by Baxter, J., ----- Joined by George, CJ., Werdegar, Chin, Brown and Moreno, JJ.
Concurring Opinion by Kennard, J.

S059739

SCOTT (JAMES) ON H.C.
Opinion filed: OSC discharged; H.C. denied

We adopt the referee's factual findings. In accordance with those findings we also conclude petitioner has failed to carry his burden of establishing ineffective assistance of counsel.

Majority opinion by Chin, J. -----joined by George, C.J., Baxter, Werdegar, Brown, Moreno, JJ
Cconcurring & dissenting opinion by Kennard, J. (see separate order denying petition)

S059739

SCOTT (JAMES R.) ON H.C.
Petition for writ of habeas corpus denied (AA)

The petition for writ of habeas corpus filed March 14, 1997 is denied. Claims 5, 7, & 8 are barred by "In re Waltreus" (1965) 62 Cal.2d 218 to the extent they were raised & rejected on appeal. Claim 8 is additionally barred because petitioner did not object at trial to wearing jail clothing or the alleged shackling. (People v. Scott (1997) 15 Cal.4th 1188, 1211, see also id. at pp. 1214-1215.; People v. Tuilaepa (1992) 4 Cal.4th 569, 583; People v. Duran (1976) 16 Cal.3d 282, 289.) All claims are also denied on the merits.

S111112

SCOTT (JAMES R.) ON H.C.
Petition for writ of habeas corpus denied (AA)

The petition for writ of habeas corpus filed on November 1, 2002, is denied. All claims are denied as untimely (In re Robbins (1998) 18 Cal.4th 770 and In re Clark (1993) 5 Cal.4th 750) and successive (In re Robbins, supra, 18 Cal.4th at p. 788, fn. 9; In re Clark, supra, 5 Cal.4th at pp. 768, 782; In re Horowitz (1949) 33 Cal.2d 534, 546-547). Except to the extent it is based on allegations of ineffective assistance of counsel, claim 2 is additionally barred because petitioner did not object at trial to admission of the confession. (People v. Kelly (1992) 1 Cal.4th 495, 519-522.) All claims are additionally barred by In re Miller (1941) 17 Cal.2d 734 to the extent they duplicate claims raised and rejected in petitioner's first petition for writ of habeas corpus. All claims are also denied on the merits. Brown, J., would deny the petition solely on the merits.

S027766

PEOPLE v. COLE (STEPHEN)
Extension of time granted

to 2/26/2003 to file appellant's reply brief. Extension is granted based upon counsel Richard P. Srief's representation that he anticipates filing that brief by 2/26/2003. After that date, no further extension will be granted.

S033901

PEOPLE v. THOMPSON (CATHERINE)

Extension of time granted

to 3/24/2003 to file appellant's opening brief. After that date, only one further extension totaling about 60 days will be granted. Extension is granted based upon counsel Gail R. Weinheimer's representation that she anticipates filing that brief by 6/1/2003.

S054489

PEOPLE v. DOOLIN (KEITH Z.)

Extension of time granted

to 4/4/2003 to file appellant's opening brief.

S109537

C039187 Third Appellate District

PEOPLE v. CANTY

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to and including January 31, 2003.

S110887G028823 Fourth Appellate District,
Division Three

REEVES (JAMES GREEBE) ON H.C.

Extension of time granted

On application of respondent and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to and including February 18, 2003.

S112146

PEOPLE v. STAYNER (CARY ANTHONY)

Extension of time granted

to 3/12/2003 to the superior court clerk to complete the clerk's transcript. Extension is granted in light of the fact that the Clerk of the Superior Court of Santa Clara County has not yet received from Mariposa County material relating to section 987.9 of the Penal Code. (See Cal Rules of Ct., rule 39.53(b)(6).) The Clerk of the Superior Court of Santa Clara

County is directed to complete the clerk's transcript, and to notify the Clerk of this court in writing as soon as she completes such transcript.

S111029

A095299 First Appellate District,
Division Three

DANNENBERG (JOHN E.) ON H.C.
Counsel appointment order filed

First District Appellate Project is appointed to represent Dannenberg. His brief on the merits shall be served/filed on or before 30 days from the date A.G's opening brief on the merits is filed.

S029476

PEOPLE v. BOYER (RICHARD DELMER)
Order filed

Appellant's motion to file supplemental reply brief is granted.

A099917

First Appellate District,

TORAN v. JONES
Order filed

The above entitled matter, now pending in the Court of Appeal, First Appellate District, is transferred to the Court of Appeal, Sixth Appellate District.